

EXHIBIT B

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF THE BRONX: TRIAL TERM PART 67
3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK, :

5 -against- :

6 ALAN NEWTON, :

7 Defendant. :
8 -----X

Date: May 7, 1985
Bronx, New York 10451

B E F O R E:

HONORABLE JEROME L. REINSTEIN,

Justice

A P P E A R A N C E S:

MARIO MEROLA, ESQ.
DISTRICT ATTORNEY
BRONX COUNTY

BY: ANDREA FREUND, ESQ.
Assistant District Attorney

FOR THE DEFENDANT:

DAVID SEGAL, ESQ.

GERALD BEATTIE
Sr. Court Reporter

ATTENTION
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SUPREME COURT CLERK'S OFFICE
BRONX COUNTY

2441/1985
Indictment
CARRO
KUPFERMAN JR.
ROSS
ELEGAN
CATH

Proceedings

COURT CLERK: Indictment 2441 of 1984, People
of the State of New York versus Alan Newton.

Please note on the record the presence in the
courtroom, for the People, defense counsel and
defendant.

People ready to proceed.

MS. FREUND: Yes, Your Honor.

COURT CLERK: Is the defendant ready to proceed?

MR. SEGAL: Yes.

THE COURT: I understand this trial must be
preceded solely by a Wade Hearing; is that correct?

MS. FREUND: That's correct.

THE COURT: No Huntley issue in this case?

MS. FREUND: That's correct, Your Honor.

THE COURT: Call your first witness.

MS. FREUND: People call to the stand Detective
Jo Ann Newbert. She will be here in two minutes.

THE COURT: Mr. Segal, do you want daily copy?

MR. SEGAL: No, Judge.

D E T E C T I V E J O A N N N E W B E R T, called as
a witness on behalf of the People, having first been
duly sworn, testified as follows:

COURT OFFICER: Witness states her name as
Jo Ann N E W B E R T, Shield No. 2604. Current

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3 Assignment Bronx Sex Crimes Unit, New York City
4 Police Department.

5 THE COURT: All right, Ms. Freund, you may
6 proceed.

7 MS. FREUND: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MS. FREUND:

10 Q Good morning, Detective Newbart.

11 A Good morning.

12 Q Detective Newbart, how long have you been on the
13 New York City Police Department?

14 A Thirteen years.

15 Q And, Detective, how long -- excuse me.

16 Well how long have you been assigned to Bronx Sex?

17 A Approximately two years.

18 Q Were you assigned to Bronx Sex in June of 1984?

19 A Yes, I was.

20 Q And in June of 1984 were you assigned to investigate
21 a rape of Miss [REDACTED]

22 A Yes, I was.

23 Q Can you please tell us when you were assigned to
24 investigate that case?

25 A In the morning. We received a dispatch sheet of
the incidents that occurred the night before.

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THE COURT: What date was that?

THE WITNESS: The 23rd.

THE COURT: June 23rd. When were you assigned the case, the 24th?

THE WITNESS: No, 23rd.

THE COURT: @23rd?

THE WITNESS: 23rd.

Q And, Detective, did there come a time when you placed an individual under arrest for the rape of [REDACTED]?

A Yes, I did.

Q Can you please tell us the name of that individual?

A Alan Newton.

Q And, Detective, do you see that individual in the courtroom today?

A Yes, I do.

Q Would you please indicate that individual for us?

A He is sitting over there next to the defense attorney I assume. (Indicating.)

THE COURT: Indicating the defendant.

Q I am going to direct your attention, Detective, to the 24th of June, approximately 8:30 in the evening. Approximately at that time did you have a conversation with Miss Velisia Johnson?

A Was that the 24th?

Newbert - People - Direct

5

1
2 Q The 24th of June at approximately 8:30 in the even-
3 ing?

4 A Yes, I did.

5 Q Where did that conversation take place?

6 A In the hospital, Jacobi.

7 Q And at that time, Detective, did Miss [REDACTED] view
8 any photographs?

9 A Yes, she did.

10 Q And did you show her those photographs?

11 A Yes, I did.

12 Q Was anyone else present when she viewed these photo-
13 graphs?

14 A Yes, Detective Phil Galligan.

15 MR. SEGAL: Sorry?

16 THE WITNESS: Detective Phil Galligan.

17 Q Can you please describe to us the matter in which
18 of these photographs were shown? Describe to us what happened,
19 please?

20 A Because of her condition and her inability to view
21 any photographs at our office we removed the photographs from
22 our files. We have sex crimes photos and we carry two manila,
23 large manila envelopes. They were wrapped in rubber bands
24 and we physically carried them over there for her to view.
25 We also took photos from the Catch file drawers because it

1 Newbert - People - Direct 6

2 was Drawer No. 58 and we took a portion of them. I believe
3 it was half of those photos in order for her to view.

4 THE COURT: How many photos did you show her?

5 THE WITNESS: The first night approximately --

6 THE COURT: First time are we talking about
7 the same time 8:30 June 24th?

8 THE WITNESS: 8:30, June 24th approximately
9 300 to 400 photos.

10 THE COURT: What are those photos of?

11 THE WITNESS: These are sex crimes photos of --
12 are photos of past arrests that we have made.

13 THE COURT: I understand that, where the photos
14 came from. Are those photos of blacks, white
15 Hispanics?

16 A Blacks. The description she gave us. We gave her
17 photos of male blacks.

18 Q Was there any suggestion by you of the specific photo
19 to select out of those photographs?

20 A No, there wasn't.

21 Q Was there any suggestion by you that a particular
22 photograph would be in or among those photos?

23 MR. SEGAL: Objection.

24 THE COURT: Sustained as to form. I don't know
25 what you mean by suggestion.

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Q Did you or anybody else at any time --

THE COURT: Why don't you say the Complainant to Mr. Johnson what did you say to her?

THE WITNESS: I requested she view the photos. If she saw anybody that she recognized or was the person because she did recognized somebody but it wasn't him.

MR. SEGAL: I didn't hear that.

THE WITNESS: She recognized a friend of hers in the photos. I asked her if the person that had assaulted her the night of -- The Saturday morning was in these photos, if she saw him to pull him out, please. I also requested that if she saw -- it was easier for her to describe to me his hair, what type hair he might have, the coloring of his skin and if she saw anybody that was similar looking. She did give me a photo. She said, "This is what his hair looked like and this is the color of his skin."

THE COURT: That is not the person?

THE WITNESS: They were not the people.

THE COURT: Did she pick out a photo that night?

THE WITNESS: No, she did not.

Q Did you return to the hospital to show her further photographs since?

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A Yes, I did, the next night I returned again approximately the same time.

THE COURT: That would be the 25th?

THE WITNESS: Correct.

Q And approximately how many photos were shown to her at that time?

A She only ended up viewing approximately 50.

Q Okay.

A We brought along with us maybe about two hundred.

Q And can you describe to us the photos you brought with you that second night?

A We brought photos from the Catch files. These are laminated in plastic. These are photos of the NYSSIS photos. The frontal and side view.

THE COURT: You say she picked out one after looking at about 50?

THE WITNESS: Approximately 50.

Q Detective, are they color photos or black and white?

A Some are colored. Some are black and white.

Q How many photos did she select?

A That one particular --

Q That evening.

A One.

Q And can you please describe to us -- withdrawn.

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THE COURT: Did she continue to look through the rest of the photos?

THE WITNESS: No.

THE COURT: She stopped after she made a positive identification?

THE WITNESS: Yes.

MS. FREUND: I ask this be marked for identification -- withdrawn. I ask this be deemed marked People's 1 for identification.

THE COURT: I think the witness wants to add something.

THE WITNESS: You can't keep that.

THE COURT: Why not?

THE WITNESS: That was the photo that was taken from the Catch file and we get complaints if we taken them out and keep for any length of time. So I have to give it back.

MS. FREUND: I ask that this photograph be deemed marked as People's 1 for identification purposes of the hearing.

THE COURT: Okay.

(Photograph deemed as People's No. 1 for identification.)

COURT OFFICER: People's 1 for identification

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10

deemed marked. A Photo.

Q I am going to ask you, Detective, to take a look at that. I'm going to ask you if you know what that photograph is?

A That is the NYSSIS photographs that we get that are taken at the time of arrest.

MR. SEGAL: Can't hear the Detective.

THE COURT: Try to keep your voice up.

THE WITNESS: They're the NYSSIS photographs that are taken at the time of arrest.

Q Do you recognize that particular photograph?

A Yes.

MS. FREUND: At this time I ask it be deemed marked People's 1 in evidence for purposes of the hearing.

THE COURT: Whose photograph is it?

MR. SEGAL: Yes.

Q Who is that photograph of, detective?

A Alan Newton.

THE COURT: Show it to Mr. Segal.

MR. SEGAL: Thank you.

I have no objection.

THE COURT: Without objection People's 1 deemed People's 1 in evidence.

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(Photograph deemed marked as People's Exhibit
No. 1 in evidence.)

Q Detective, this photograph that has been deemed to
be marked as People's 1 in evidence is that the exact photograph
that the witness saw that evening?

A No, it is not.

Q Is it a fair and accurate representation of the
photograph that she selected that evening?

A Yes, it is.

THE COURT: Yes or no, that is not the photo-
graph?

THE WITNESS: That is not the actual photograph.
She picked out a laminated photograph which is the
one is over there that cannot be admitted in evidence.

THE COURT: Wait a minute. I'm sorry. Police
Department regulations only go so far. If this has
to be preserved for review by Appellate Court it will
be preserved for review by an Appellate Court even
if it is no longer kept in the Catch unit.

MS. FREUND: Okay.

I ask this be deemed marked People's 2 for
identification for purposes of the hearing.

THE COURT: All right.

(Laminated photograph deemed marked as People's

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Exhibit 2 for identification.)

COURT OFFICER: Deemed marked People's 2 for identification, Your Honor.

THE COURT: Yes.

Q I will ask you to look at this photograph. I will ask you if you recognize it. Detective is that the same photograph that has been marked as People's 1 for identification?

A Yes, it is.

THE COURT: When you say a copy are they exactly the same?

THE WITNESS: Yes. They're laminated in order for everybody to look through the files. They would be destroyed, pictures would be destroyed so they're laminated. When he asked the exact photograph, it wasn't, but that is a copy.

THE COURT: It is a copy taken from this one you mean?

THE WITNESS: Yes.

THE COURT: People's 1 is a photo of People's 2?

THE WITNESS: Right.

THE COURT: This one you can keep. That one you can't.

Q What is the difference between People's 1 for -- in

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evidence and that which has been deemed as People's 2 for
identification?

A It is fully laminated for its protection.

Q You're possibly referring to People's 2?

A Right.

THE COURT: Do you want to show that to Mr.
Segal? Any objection to that being in evidence?

MR. SEGAL: May I see it.

(Pause.)

MR. SEGAL: I have no objection.

THE COURT: Without objection People's 2 is
deemed People's 2 in evidence.

(People's Exhibit 2 previously deemed marked
for identification deemed marked as People's Exhibit
2 in evidence.)

THE COURT: What if anything, Detective, did you
say to Miss [REDACTED] after she saw People's 2.

THE WITNESS: I asked her if she was sure that
it was the person that had attacked her that night.
I had also asked her if she was feeling all right
and she could see properly.

THE COURT: What did she say?

THE WITNESS: She said she could see properly
and she was sure.

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before.

THE COURT: I don't think that is what Payton precludes. Payton, a citizen is supposed to know that they have a right to tell the officer you can't come in if you don't have a warrant. I think if a civilian opens the doors and invites the officer in merely because they identify themselves as officers that is consensual entry. There is not, that is not a forced entry unless we're dealing with two or three year olds which they had in companion case of Riddick. I see this case has Singers in it.

CONTINUED CROSS EXAMINATION

BY MR. SEGAL:

Q Detective, you said that you got the case on what, the 23rd?

A Yes.

Q Morning of the 23rd; is that correct?

A Yes.

Q And after you got the case, where was the first place you went in connection with identification?

A I didn't go for an identification.

Q What did you do next with making an identification? What was the first thing you did?

THE COURT: Was the first thing you did was

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the first thing you did was to go to the hospital
on the 24th at 3830 p.m.?

THE WITNESS: No. I interviewed the complainant
the 23rd.

Q You interviewed Miss [REDACTED] at the hospital, is
that correct?

A Yes.

Q And I assume Miss [REDACTED] gave you a description;
is that right?

A As best as she could.

THE COURT: What was her description at that
time?

THE WITNESS: She was on her way to being
operated on and she was in very, very bad shape.
We could get just a little bit out of her. She
was falling in and out of consciousness. She was
in severe pain.

Q Were you able to get some sort of description from
her?

A Yes enough to --

Q Put together photos?

A No. No I didn't put together any photos. I knew
it was a male black from the dispatch sheet we get. It was
a male black, certain weight and height and this is taken

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1 from the 61 which is taken from the original officer at the
2 scene.

3
4 Q Anything else?

5 A Beside --

6 Q Beside male black certain weight and height, anything
7 else?

8 A I got a further description what he was wearing
9 in order to make out more of, you know, a wanted I.D.

10 Q Anything else such as marks on the face, moustache,
11 goatee, Afro anything like that?

12 A She said that he had a short hair, hair brown, brown
13 hair, dark complexion, medium build. She said he had a very
14 light moustache, slight moustache and the clothes he was wear-
15 ing he was wearing. Should I go ahead with the clothes?

16 MS. FREUND: Sure.

17 A (continuing) corduroy pants. She believed beige
18 and a shirt with stripes, three stripes on the side.

19 Q She said he had a dark complexion; is that correct?

20 A Yes.

21 Q You said he had a moustache but it was a light
22 moustache?

23 A Yes.

24 Q Does that mean it was not a heavy one?

25 THE COURT: Sustained.

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Q Did you inquire whether or not what she meant by light?

A She was telling me what she could and I was taking it as fast as I could and they were bringing her into the operating room.

Q Anything about hair.?

A She said it was short.

Q Short Afro, long.

A Just short hair.

Q Anything else about the face?

A No.

Q Anything else about the man's teeth?

A No.

Q Anything else about his mouth?

A No.

Q His nose?

A No. I got a basic description of what happened. I had to try and find the crime scene and get a lot of information from her in a short amount of time.

Q If you got that I assume you left the hospital?

A Yes.

Q And the next day you saw Miss [REDACTED] was the 24th?

A Correct.

Q That was 8:30?

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1
2 A Yes.

3 Q At that time you brought four or five hundred photos
4 with you?

5 A No. I think it was about --

6 Q About a hundred photos.

7 A Yes.

8 Q And those photos were black and white photos?

9 A No, not all black and white. Some black and white.
10 Some in color.

11 Q Were they front views, side views, what?

12 A Front and side views.

13 Q Those photos came from Sex Crimes?

14 A We have a sex crimes file and a Catch Unit file.

15 Q The Catch is what?

16 A Catch is all arrests made, uniform and detectives.
17 We have photos of only our detective arrests.

18 Q The Catch does that contain sex, those Catch photos
19 that you brought to her were those individuals who had committed
20 sex crimes?

21 A Yes, they were.

22 Q And you said you took from a drawer sixty or fifty
23 eight?

24 A Correct.

25 Q What does that mean?

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A They're separated into male, black, white or they have oriental. They are separated by height and they are separated by crime.

Q What does drawer 58 mean?

THE COURT: Between 57 and 59.

THE WITNESS: Yes.

Q I know that.

A Between, it is between. They have categories.

Q Does that mean it is male black, certain weight and whatever?

A Correct.

Q And how many photos were in that drawer, 58?

A Five hundred.

THE COURT: I think the detective said she didn't take all the pictures.

THE WITNESS: No I didn't take them all.

Q Just trying to find out.

A I did not take all of them from the Catch file that particular day. We couldn't carry them.

Q You took half of them; is that it?

A Approximately.

Q You brought all those photos to Miss [REDACTED] in the hospital; is that correct?

A Yes.

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Q And you said you brought them in two manila envelopes;
is that correct?

A Yes.

Q You brought them to her with Detective Galligan;
is that right?

A Yes.

Q Anybody else present beside the three of you?

A There was -- she was in a ward so there's other
patients.

Q Was she on intravenous?

A I don't remember.

Q Do you know what her condition was -- withdrawn.
Was she on medication?

MS. FREUND: Objection.

A I don't know. I had asked.

THE COURT: Just tell us if you know. If you
don't know.

THE WITNESS: I don't know.

Q Was she like the day before slipping in and out
of consciousness?

A No, she wasn't.

Q How would you describe her condition?

A I asked the doctors first if I could do this, if
I could let her view the photos.

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1 Q What was their reply?

2 A They said don't stay too long.

3 Q When you saw her what was her condition?

4 A She was lying in the hospital bed and I had asked
5 her are you ready to do this and she said yes I'll view the
6 photos.
7

8 Q Did you look at her face?

9 A Yes.

10 Q Did she have -- could she see -- withdrawn.
11 Did she have any bandage on her face?

12 A Yes.

13 Q Where did she have the bandages?

14 A She had the bandage over her eye. I don't know
15 which eye it was. I believe it was her right. I don't know.

16 THE COURT: Can we stipulate which eye?

17 MS. FREUND: Left eye.

18 THE COURT: Okay.

19 Q Did you see any -- did you ask her if she was on
20 any medication?

21 A No.

22 Q When you talked to her, when you showed her the
23 photos how did she go about looking at them?

24 A She put them in her lap. I would give her a certain
25 amount and a rubber band. I took the rubber band off. She

Newbert - People - Cross

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1
2 would thumb through them. She was sort of semi propped up
3 in the bed. She would view the photos.

4 Q The bottom line is, she didn't recognize anybody
5 on that date; is that correct?

6 A Yes.

7 Q Was Mr. Newton's photo in that group that was brought
8 to her on the 24th?

9 A I don't believe so.

10 Q Do you know if it was or it wasn't? q

11 A She didn't pick him out.

12 THE COURT: No. What counsel is asking is
13 whether you know of your own knowledge.

14 THE WITNESS: No I don't.

15 THE COURT: Whether the defendant's photo is
16 in that first group?

17 THE WITNESS: I don't believe so.

18 Q You don't have those photos that you showed to her
19 that day with you; do you?

20 A No. I need four people to carry them.

21 Q You returned the next day; is that right?

22 A Correct.

23 Q And the next day would be the 25th?

24 A Yes.

25 Q On the 25th between the day, that night, 8:30 and

Newbert - People - Cross

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the next day, the 25th did you see Miss [REDACTED] at any time or talk to her at any time?

A No.

Q Did you tell her on the 24th you were going to return on the 25th?

A Yes, I did.

Q And you told her on the 25th that you would return with the -- you had told her on the 24th you would return on the 25th with more photos?

A Yes.

Q And on the 25th how many photos did you return with?

A Maybe the same amount.

Q Where did you get those photos from?

A I got them from the opposite side. I took the other half of drawer 58 and I started on the drawer underneath which would be a lower height.

Q Drawer 58. Does that mean the height five foot eight?

A No. It means in 58 it contained five foot eight and male blacks of all ages. Fifty seven contained under five foot eight.

Q The other photos that you brought with you the ones from Sex Crimes, day before?

A Yes.

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Q Did you bring any more of those?

A No. We completed that file.

Q Everything of those sex crimes on the 24th was completed?

A Right.

THE COURT: All you brought on the 25th was from the Catch Unit?

THE WITNESS: Yes.

Q Catch is from all over the Bronx?

A Yes.

Q When you came to her the next day did you tell her when you first brought the photos to her?

A No. I was amazed that she was sitting up and said how are you feeling. Asked her how she felt. She said, a little better and I said are you ready to view some more photos.

Q She had gone through a major operation; is that correct?

A Yes.

Q Did you see her on any intravenous or any kind of medication?

A I couldn't say for sure. She might have been and it didn't register.

Q Was she going in and out of consciousness? Anything

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1
2 like that?

3 A No.

4 Q Was anyone else present when you showed her the
5 photos?

6 A Detective Galligan.

7 Q Just you, Galligan and her?

8 THE COURT: And other people in the ward?

9 THE WITNESS: Yes.

10 Q You showed her the photos. What time is this by
11 the way?

12 A Approximately the same time.

13 Q 8:30 in the evening?

14 A Yes.

15 Q What happened when you showed her the photos?

16 A She started to view the photos again and she picked
17 out at the viewing approximately fifty, maybe seventy photos
18 she picked this out. She looked at it and she says this
19 is him.

20 Q This was of the Catch photos; is that correct?

21 A Yes.

22 Q These Catch photos the individuals who are in it, did
23 they all have the same facial characteristics?

24 A No.

25 Q They were all different?

Newbert - People - Cross

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A All different.

Q You mean some had big Afros, some small Afros, moustaches, goatees, all mixitures, is that what you're telling us?

A Yes.

Q The photo she picked out from the one herein evidence?

A Yes.

Q This one here in the lamination which is Exhibit 2?

A Yes.

Q Was the writing on the back of it?

A Yes.

Q Did all of them have similar writing on the back?

A Some of them have actual arrest reports on the back, the older ones.

Q Do they also have the NYSSIS --

THE COURT: I'm not interested at the moment.

Do you know if she looked at the back of any of those photos?

THE WITNESS: No. We do not permit them to look at the back of photos.

THE COURT: You told her not to look at the back?

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THE WITNESS: She never did. I was standing right there.

Q Are the photos in the Catch are they recent photos or older photos?

A Sex crimes should be purged -- not purged. The other files are purged I believe after a certain amount of time.

Q The Catch file -- which one.

The drawer in the Catch as well as the other ones that you brought, the black and whites, mixture of black and white and colors are those, are they photos that could be from all times, last ten years whatever; is that what you're saying?

A I don't know how long they go back.

Q They are not purged?

A No. The sex crimes are not purged.

Q That means they are kept forever?

THE COURT: When you say sex crimes, talking about your pictures or the Catch Unit?

THE WITNESS: All Catch sex crime pictures are not purged. They are not taken out. Usually about two years. I'm not sure exactly how long they are kept.

THE COURT: They are not purged?

THE WITNESS: No. Sex crimes are not.

Newbert - People - Cross

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Q When you say two years you mean they're kept for a certain amount of time and then purged?

A Yes.

In the Catch Unit I don't know their specific but other than sex crimes.

Q The photos that you showed Miss [REDACTED] e're talk-about the 25th now?

A Yes.

Q Is it fair to say each one of them had the little black card on it with the NYSSIS number, the same as this one, May 30th of '84, Bronx and another number it, all of them had that; is that correct?

A Yes.

Q So some of them would be fair to say had dates, June '84, May '84, all '84 and '83s? They all have dates?

THE COURT: Could have been if there's no purge. Could have been in 1970.

THE WITNESS: Yes '78.

THE COURT: All had NYSSIS number dates.

Q Did Miss [REDACTED] say to you well, this one has a May '84 date?

A No.

Q Did you say this one has a May '84 date?

A No.

Newbert - People - Cross

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Q Did Galligan say anything?

A I look at it and I said it to myself and then I said it to Galligan, I said to Detective Galligan and I said it is likelihood that this guy is in jail. So --

THE COURT: Was she able to hear that?

THE WITNESS: No.

Q Where did you say that?

A I walked over to him. I was away from her.

Q This is after she picked out the picture?

A Yes.

Q What was the first words she said to you when she picked out the picture?

A She said, "This is him."

Q What did you say?

A I just looked over at her and I said, "Are you sure?" And she said, "Yes. This him."

Q Then what did you do?

A I looked at it myself and I saw the date and I went to Detective Galligan and I said, "We've got to check this out. He maybe incarcerated still."

I went back to her and I said, "[REDACTED] are you sure?" She said, "Yes, I am."

THE COURT: If I understand you, you thought she might have been wrong because the picture she

1 Newbert - People - Cross

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2 picked out is a person you thought that might still
3 be in jail?

4 THE WITNESS: Very likely.

5 Q What did you do, you and Galligan do after you
6 left her?

7 A I believe --

8 THE COURT: I'm not interested in that.

9 MR. SEGAL: I shouldn't ask it that way.

10 THE COURT: I wasn't thinking of anything
11 other than there's no identification procedure.
12 What she did or didn't do with Detective Galligan
13 is of no concern to me.

14 MR. SEGAL: At this time.

15 THE COURT: At this time.

16 Q You and Galligan you have the photographs, what
17 do you do concerning this photograph?

18 A We called our office right away.

19 THE COURT: Sustained. Unless you're raising
20 a Dunaway issue or something else. I don't see
21 the relevance. This is a Wade Hearing.

22 Q After that was done what did you do next with the
23 identification?

24 A We went back to my office and I did further checking
25 on it. Found out --

Newbert - People - Cross

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THE COURT: Just talk about identification now. When was the next identification procedure you were involved in?

THE WITNESS: With the photo array I made up a photo array and I --

Q Talking just with just Miss [REDACTED] There came a time when -- withdrawn.

There comes a time then that you make a check to see if Mr. Newton is in or out of jail?

A Yes.

THE COURT: Sustained.

Q Then what did you do? You arranged for a lineup; is that right?

THE COURT: No. There was something else.

Q Talking about with Miss [REDACTED] or Miss [REDACTED] or any other identification procedures used with Miss [REDACTED]?

A No.

THE COURT: Next thing you do, make up a photo array, show it to Miss Gonzalez; correct.

MR. SEGAL: I just want to deal with Miss

[REDACTED]

Q Next thing you do with Miss [REDACTED] is the lineup; is that right?

A Yes.

[REDACTED] - People - Direct

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Q Now, she came to see you -- withdrawn.

This happened to you Saturday morning, the 23rd?

A Yes.

Q She came to see you in the hospital that afternoon,
the 23rd?

A Yes.

Q Were you able to view photographs that afternoon?

A No, I wasn't.

Q Did there come a time the following evening when
she returned with photographs?

A Yes, she did.

Q Do you know if when she returned she was alone
or accompanied by someone?

A She was accompanied by the male officer.

THE COURT: Same male officer?

THE WITNESS: Yes.

Q At that time, Miss [REDACTED] did you view photographs?

A Yes.

Q Where were those photographs shown to you?

A In the hospital.

Q Were you in a hospital bed at that time?

A Yes.

Q Did Detective Newbert show you these photographs?

A No. He just handed them to me.

[REDACTED] - People - Direct

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THE COURT: What did she say to you when she handed you the photographs?

THE WITNESS: She told me she had to look through the photographs and if I see anybody that I recognize to let her know.

THE COURT: Did she say if you see the person who raped you?

THE WITNESS: No, she didn't. If I see -- yes, she did. Excuse me.

Q Okay and did you look through photographs?

A Yes.

Q Do you know approximately how many photographs you looked through?

A No I wasn't counting.

THE COURT: Were there a lot of photographs?

THE WITNESS: Yes.

THE COURT: Several hundred?

THE WITNESS: It was about a hundred fifty to two hundred.

THE COURT: And you didn't recognize anybody there?

THE WITNESS: No.

Q Did you select any photographs or show her any photographs the first time that she showed you photographs

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of that evening?

MR. SEGAL: Objection.

THE COURT: Overruled. I understand the form.

Overruled.

Q Did you show her any photographs that first evening?

A The first evening, no.

Q I will direct your attention to the 25th of June, the following evening, approximately 8:30 or 8:45. Did Detective Newbert return to the hospital?

A Yes, she did.

Q When she returned to the hospital did anybody go with her?

A Excuse me?

Q When she returned to the hospital was there anyone with her?

A Yes, the same detective.

Q The second time that she returned -- withdrawn. When she returned to the hospital again that evening did she show you photographs?

A No. She just handed me the photographs and I went through them.

Q What if anything did she say before she handed you the photographs?

A She just told me to be -- to just look through

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them. If I see the person to let her know. That is all.

MR. SEGAL: Sorry, Judge, I didn't get that.

THE COURT: Read back the answer.

T THE COURT: You went through the photographs
and looked at the photographs?

THE WITNESS: Yes.

THE COURT: Did you pick out any pictures?

THE WITNESS: Yes.

THE COURT: How many did you pick out?

THE WITNESS: I don't remember.

THE COURT: How many photographs did you
pick out?

THE WITNESS: I don't remember how many I
picked out.

THE COURT: I'm not asking you how many you
looked at. You looked at photographs. Did you
pick out a particular picture and tell the officer
this is the person who raped me?

THE WITNESS: Yes, I did.

Q It was that one picture that you picked out?

A Yes.

Q You don't remember how many you looked at first
before you picked out that one?

A No.

1 [REDACTED] - People - Direct

2 Q Were there many you looked at though?

3 A Yes. She had them in an envelope.

4 Q I will show you that which has been previously
5 marked as People's 2. I'm going to ask you if you know what
6 this is?

7 A This is the photograph that I picked out.

8 THE COURT: What if anything did Detective
9 Newbert say to you after you showed her that picture?

10 THE WITNESS: She asked me was I sure.

11 THE COURT: And what did you tell her?

12 THE WITNESS: Yes, I was.

13 Q Miss [REDACTED], I'm going to direct your attention
14 to the 28th of June, at approximately two o'clock in the
15 afternoon and asking if at approximately that time you viewed
16 a lineup.?

17 A Yes, I did.

18 Q Where were you before the time that you viewed
19 the lineup?

20 A In the hospital.

21 Q And do you remember how you got from the hospital
22 to the lineup?

23 A Yes, I do.

24 Q Can you please tell us?

25 A I got from the hospital to the lineup, the two